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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

MELVIA HARRIS; ROBERTA KNIGHTEN; *Plaintiffs*, v. CITY OF LOS ANGELES, *Defendant*.	No. 5:24-cv-2679 **Complaint for Damages and Injunctive Relief** 42 U.S.C. §1983)

Plaintiffs Melvia Harris and Roberta Knighten (collectively, Plaintiffs) bring this civil action against the City of Los Angeles (City or Los Angeles) and allege as follows:

INTRODUCTION

1. This lawsuit challenges landlord-tenant regulations promulgated and enforced by Los Angeles in the post-pandemic period that squarely conflict with U.S. Supreme Court precedent and constitutional first principles.

2. In 1979, after a 50-year period of on-again-off-again rent control in Los Angeles, the City enacted its "Rent Stabilization Ordinance" (RSO), which regulates numerous facets of the landlord-tenant relationship in renter-occupied buildings throughout the City. In the intervening 45-year period since, the City has repeatedly amended the RSO, and today, its effects are widespread and devastating. Although the RSO generally governs only those rental properties existing as of October 1, 1978 (and generally exempts all other rental properties), it nevertheless still applies to over three-fourths of all multi-family rental units in Los Angeles, which is the Nation's second-largest city and home to some four million people.

3. While the RSO contained glaring constitutional defects on day one, those problems have grown only more severe in recent years. With the onset of the COVID-19 pandemic, for example, the City promptly amended the RSO to

prohibit landlords from increasing rents in RSO-regulated properties at all and then precluded landlords from evicting tenants who refused to pay even those considerably below-market rates.

4. For landlords, many of whom maintain modest mom-and-pop operations and whose livelihoods depend on the success of those operations, those draconian restrictions could hardly have come at a worse time. During the nearly four-year period between 2020 and 2024 when the City maintained these unprecedented restrictions, inflation skyrocketed by 20% and reached levels not seen in four decades. Unsurprisingly, landlords throughout the City—including Plaintiffs here—suffered substantial losses as the City forced them to continue housing non-paying tenants on their own dime.

5. Given the heavy burden that Los Angeles forced landlords to bear during the pandemic, one would have thought that, after the pandemic receded, the City would have taken the equitable, even-handed, and property-rights-protective path of allowing landlords to meaningfully increase rents and to evict tenants who refused to keep up their end of the rental bargain. Unfortunately, Los Angeles chose a decidedly different path and entrenched anti-landlord policies that violate core constitutional rights of those who own the City's oldest stock of rental housing.

6. First, in early 2023, the City declared that, even in the post-pandemic period, a landlord who owns an RSO-regulated property could *not* evict a tenant who refused to pay his full rent on time. Instead, the City announced that a landlord could evict a tenant for a default in rent *only if* his unpaid rent exceeds one month of "fair market rent." That "fair market rent" is not the rent that Los Angeles allows property owners to charge their tenants. Instead, it is the rent set annually by the U.S. Department of Housing and Urban Development (HUD) for a comparable rental unit in the City, which is often substantially higher than a tenant's actual monthly rent. Thus, at the same time that Los Angeles prevents property owners from charging market-clearing rates, it uses rents that come closer to approximating market conditions when protecting defaulting tenants. As a result of this new policy—referred to here as the "FMR Eviction Restriction"—tenants can shortchange their landlords for potentially months on end, and landlords have no ability to exclude the tenants from their properties for that behavior unless and until the unpaid rent exceeds the City's designated threshold.

7. Second, in late 2023—amidst a multi-year stretch in which the City barred landlords from increasing rents at all, thereby guaranteeing that rents of RSO-regulated properties would not even remotely approach fair market rates—the City proclaimed that landlords operating the older properties subject to the RSO (and only those landlords) could increase rents only by a paltry 4% during

the initial period that immediately followed the pandemic (the period spanning February 2024-June 2024). That restriction—referred to here as the "4% Rent-Increase Cap"—did not even keep pace with inflation from the immediately prior year, let alone compensate landlords for the crushing inflationary effects going back to 2020, which have increased prices on everything from insurance and maintenance costs to taxes and more. And although the date restrictions associated with the 4% Rent-Increase Cap at least left the door ajar to a policy change that would see the City finally allow rent increases that acknowledged landlords' increasingly tenuous economic situations, the City recently slammed the door shut on that prospect and elected to double down on its tenants-*über-alles* approach, by announcing that the 4% Rent-Increase Cap will last an entire extra year (at least). Accordingly, during the July 2024-June 2025 period, landlords operating RSO-regulated properties once again cannot increase rents by more than 4%. And all the while, the City imposes no rent-increase caps at all on landlords operating rental properties built after October 1, 1978 (and recently enacted state law authorizes rent increases for non-RSO-regulated properties that are considerably higher than 4%).

8. The net effect of these policies is that, unless one of the other exceedingly narrow grounds for eviction on the RSO's exclusive list of permissible reasons for eviction applies, landlords operating RSO-regulated

properties in the City (and only those properties) are required to continue renting their units to existing tenants at a fraction of market rates and cannot evict those who default on their payments unless and until the arrearages measure in the thousands of dollars.

9. Predictably, such policies have led many landlords who own RSO-regulated properties to consider reclaiming those properties for their own use—like family use—instead of living with the anxiety and steep monetary costs associated with renting. But the City does not lightly allow landlords to repossess their own property for family use either. Instead, the City permits a landlord to evict a tenant in order to reclaim property for family use only if she is willing and able to pay the affected tenant exorbitant "relocation fees" that often measure in the tens of thousands of dollars. And when a landlord's plan to reclaim units for family use affects a specific subset of tenants, known as "protected tenants," the City requires even more of the landlord. Specifically, the City requires the landlord to remove *all* of the rental units at the property from the rental market, announce that plan one year ahead of time, allow the tenants to continue living in their units for the duration of the one-year waiting period, and pay relocation fees to *all* tenants at the property to boot. Worse still, the landlord must pay those relocation fees at the front end of this yearlong process. This requirement—referred to here as the "Relocation-Fee Requirement"—applies regardless of

whether the landlord has the financial resources to pay relocation fees or not and regardless of whether the tenant needs such fees.

10. The City also ensures that tenants are well aware of the substantive restrictions that RSO-regulated property owners face and that inure to the tenants' benefit. That is because the City also compels those property owners to prominently display City-drafted notices in the common areas of their properties to inform tenants of the FMR Eviction Restriction, 4% Rent-Increase Cap, and Relocation-Fee Requirement. In other words, the City requires property owners to provide tenants with step-by-step instructions as to how those tenants can take advantage of the City's various policies undermining the owners' property rights. That regulation is referred to here as the "Renter Protections Notice Requirement."

11. These regulations are not only unjust—and a recipe to push smaller landlords out of the business altogether—but manifestly unconstitutional several times over.

12. To begin, the Takings Clause of the Fifth Amendment to the U.S. Constitution, which applies to states and local governments through the Fourteenth Amendment, is designed to prevent just the sort of policies that the City has enshrined in the FMR Eviction Restriction, 4% Rent-Increase Cap, and Relocation-Fee Requirement. Recent U.S. Supreme Court cases confirm as much.

13. In June 2021, the Supreme Court emphasized in *Cedar Point Nursery v. Hassid*, 594 U.S. 139, 149-50 (2021), that the "right to exclude" is of "central importance to property ownership" and that a regulation that "appropriates for the enjoyment of third parties the owners' right to exclude" is a "*per se* physical taking" requiring payment of just compensation under the Takings Clause.

14. And while *Cedar Point* did not itself involve the landlord-tenant relationship, the Supreme Court promptly reiterated the primacy of the right to exclude in the landlord-tenant context just two months later in August 2021 in *Alabama Association of Realtors v. Department of Health & Human Services*, 594 U.S. 758 (2021) (per curiam). There, when evaluating an emergency application for a stay that addressed whether a federal agency had statutory authority to prohibit landlords from evicting non-paying tenants during the COVID-19 pandemic, the Supreme Court had little trouble concluding that equitable considerations (one of the factors in the stay analysis) did not favor maintaining that novel policy pending appeal because the Court's physical-takings jurisprudence had already clearly demonstrated that "preventing [landlords] from evicting tenants who breach their leases intrudes on one of the most fundamental elements of property ownership—the right to exclude." *Id.* at 765.

15. Los Angeles' FMR Eviction Restriction, 4% Rent-Increase Cap, and Relocation-Fee Requirement have likewise appropriated a landlord's right to

exclude for the enjoyment of third parties. The entire point of the FMR Eviction Restriction is to prevent landlords (like Plaintiffs here) from excluding tenants who refuse to pay their rent unless and until the City gives the green light, which the City will not do until long after landlords have lost substantial amounts of money. The entire point of the 4% Rent-Increase Cap is to make clear that, even if landlords (like Plaintiffs here) would prefer to lease their properties at market-based rates and exclude those who are unwilling to pay, their existing tenants nevertheless have government authorization to remain in possession of their units at bargain prices over the landlords' objection. And the entire point of the Relocation-Fee Requirement is to prohibit landlords (like Plaintiffs here) from exercising their right to exclude and to reclaim their own property for their own family's use unless landlords are willing to fork over eye-watering amounts of money to tenants (and sometimes landlords cannot even reclaim the property unless they wait an entire year). The end result is that tenants whom landlords would prefer to exclude are allowed to stay on the premises via government fiat and at rates that are well below actual fair market value. Those are *per se* physical takings.

16. At a bare minimum, the FMR Eviction Restriction, 4% Rent-Increase Cap, and Relocation-Fee Requirement amount to regulatory takings under the multi-factor balancing test set forth in *Penn Central Transportation Co. v. City of*

New York, 438 U.S. 104 (1978). Indeed, if these draconian provisions survive that ad hoc balancing test, it would mean that the time has come for the Supreme Court to overrule it.

17. In the end, however, the Supreme Court should not have to take such steps here. That is because it cannot seriously be disputed that, through the FMR Eviction Restriction, 4% Rent-Increase Cap, and Relocation-Fee Requirement, Los Angeles has sought to "forc[e] some people alone" (*i.e.*, landlords like Plaintiffs) "to bear public burdens" (*i.e.*, the provision of below-market rental housing) "which, in all fairness and justice, should be borne by the public as a whole." *Armstrong v. United States*, 364 U.S. 40, 49 (1960). The Constitution's guidance is clear and unmistakable in such a context: The affected property owners are "entitle[d]" to "just compensation"—full stop. *Id.*

18. And while the City's repeated violations of the Takings Clause are bad enough, there is more.

19. The City's intentional decision to apply its 4% Rent-Increase Cap exclusively to rental properties in existence as of October 1, 1978, is a textbook violation of the Equal Protection Clause of the Fourteenth Amendment, which "directs that 'all persons similarly circumstanced shall be treated alike,'" *Plyler v. Doe*, 457 U.S. 202, 216 (1982)—especially when it comes to fundamental rights, like the property rights protected by the Takings and Due Process Clauses, *see*

Att'y Gen. of N.Y. v. Soto-Lopez, 476 U.S. 898, 904 (1986) ("Whenever a state law infringes a constitutionally protected right, we undertake intensified equal protection scrutiny of that law.").

20. Even though the City has concluded that regulations materially identical to the FMR Eviction Restriction and the Relocation-Fee Requirement should apply in circumstances involving rental properties built after October 1978, it nevertheless insists that it can apply its 4% Rent-Increase Cap exclusively to older properties, even though all of these pre- and post-1978 rental properties are similarly situated and together comprise the class of multi-family rental housing in Los Angeles. That decision—which frees the City to impose crushing restrictions on disfavored owners of older properties with sunk costs and little ability to exit the market (especially in light of the Relocation-Fee Requirement) without fear that investors will shy away from investing in new development because of those restrictions—violates Equal Protection Clause principles. Indeed, the restrictions are not even rationally related to any legitimate end, as property owners face higher maintenance costs at older properties and are most in need of additional rental income to cover such added expenses. Plaintiffs thus are entitled to damages for this equal-protection violation as well, along with an injunction prohibiting the City from enforcing the 4% Rent-Increase Cap against their RSO-regulated properties moving forward.

21. Plaintiffs are likewise entitled to damages and prospective injunctive relief for the Renter Protections Notice Requirement, which violates the First Amendment. The First Amendment, which applies to states and local governments through the Fourteenth Amendment, presumptively prohibits the government from compelling individuals to speak particular messages, *see, e.g.*, *Nat'l Inst. of Fam. & Life Advocs. v. Becerra* ("*NIFLA*"), 585 U.S. 755, 766 (2018), which is precisely what the Renter Protections Notice Requirement requires landlords to do. Those messages are not uncontroversial either. To the contrary, the Renter Protections Notice Requirement forces landlords to make highly objectionable statements describing how tenants may neuter their own property rights—specifically, the right to exclude. Bedrock free-speech principles foreclose such government action.

22. In short, the City has violated three separate constitutional provisions with the FMR Eviction Restriction, 4% Rent-Increase Cap, Relocation-Fee Requirement, and Renter Protections Notice Requirement. Damages and injunctive relief are amply warranted.

JURISDICTION AND VENUE

23. This suit is brought under 42 U.S.C. §1983 and the Fifth and Fourteenth Amendments to the U.S. Constitution. This Court has subject-matter jurisdiction under 28 U.S.C. §1331.

24. Venue is appropriate in this district under 28 U.S.C. §1391(b) because the defendant resides in this district, a substantial part of the events giving rise to this complaint occurred in this district, and the properties that are subject of this action are situated in this district.

PARTIES

25. Plaintiff Melvia Harris is an individual who, since July 1, 1984, has owned the real property located at 2122 Vineyard Avenue, Los Angeles, California 90016.[1] The 2122 Vineyard Avenue property is an RSO-regulated property[2] located in the Mid-City neighborhood of Los Angeles and has three rental units: (1) a one-bedroom unit; (2) a two-bedroom unit; and (3) a three-bedroom unit. Between July 7, 1992, and November 25, 2024, Plaintiff Harris also owned the real property located at 2810 Somerset Drive, Los Angeles, California 90016.[3]

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[1] This parcel has three street addresses (2122 Vineyard Avenue, 2122 ½ Vineyard Avenue, and 2124 Vineyard Avenue).

[2] The City maintains a website—ZIMAS, which is an acronym for Zone Information and Map Access System—that informs the public whether properties at particular addresses are subject to the RSO. *See* City of L.A., *ZIMAS*, https://zimas.lacity.org (last visited Dec. 18, 2024) (after inserting address, navigate to "Housing" tab and then look at the "Rent Stabilization Ordinance" row).

[3] This parcel has four street addresses (2810 Somerset Drive, 2810 ½ Somerset Drive, 2812 Somerset Drive, and 2812 ½ Somerset Drive).

The 2810 Somerset Drive property is an RSO-regulated property located in the Jefferson Park neighborhood of Los Angeles and has four one-bedroom units.

26. Plaintiff Roberta Knighten is an individual who is the trustee of the Knighten Childrens Trust established under the Robert and Genevieve Kyle Family Trust, which is the entity that, since March 2009, has owned the real property located at 5526 Compton Avenue, Los Angeles, California 90011.[4] The 5526 Compton Avenue property is an RSO-regulated property located in Los Angeles and has two two-bedroom rental units. Plaintiff Knighten also serves as the trustee of the Knighten Childrens Trust established under the Robert and Genevieve Kyle Family Trust, which is the entity that, between March 2009 and August 29, 2024, owned the real property located at 1344 East 43rd Place, Los Angeles, California 90011.[5] The 1344 East 43rd Place property is an RSO-

[4] This parcel has two buildings on it with different street addresses (5526 Compton Avenue and 1511 East 56th Street).

[5] This parcel has one building on it with three street addresses (1344 East 43rd Place, 1344 ½ 43rd Place, and 1346 East 43rd Place).

regulated property located in Los Angeles and has three rental units: (1) a studio unit; (2) a one-bedroom unit; and (3) another one-bedroom unit.

27. Defendant City of Los Angeles is a municipal corporation organized as a charter city under the laws of California. One of the City's departments is the Los Angeles Housing Department, which is charged with implementing the RSO.

BACKGROUND

A. History of Rent Control in Los Angeles Before the RSO

28. The market for rental housing—and observations about the upward trajectory of prices in that market—is older than the Republic. As Benjamin Franklin remarked in 1763 upon returning to America after spending several years abroad, "[t]he [e]xpence of [l]iving is greatly advanc'd in my [a]bsence," and the "[r]ent of old [h]ouses ... are trebled in the last [s]ix [y]ears." Letter from Benjamin Franklin to Richard Jackson (Mar. 8, 1763), *in Founders Online, Nat'l Archives*, https://rebrand.ly/bn1nfip.

29. As the Nation grew and as parts of the population headed West, a competitive housing market followed too. "Residents have struggled to secure housing in Los Angeles," for instance, "extending back to the nineteenth century, when transient laborers rode the rails west to the city seeking work." Kirsten Moore Shelley et al., *The Making of a Crisis: A History of Homelessness in Los*

Angeles 2, UCLA Luskin Ctr. for Hist. & Pol'y (Jan. 2021), https://rebrand.ly/vm9s8ep.

30. Although the market for rental housing is centuries old in America, government efforts to intervene in that market are a relatively recent phenomenon, presumably because "a deeply rooted national belief in the sanctity of the 'unfettered marketplace' has an especially strong claim in the housing sector, which, perhaps more than any other economic arena, is seen as embodying individual choice unrestrained by the hand of government." Peter Dreier, *Rent Deregulation in California and Massachusetts: Politics, Policy, and Impacts* 4 (May 14, 1997), https://rebrand.ly/b324a6v.

31. In fact, "[r]ent controls were initially imposed in the United States" only "as a result of housing shortages during World War I." Louis M. Rea & Dipak K. Gupta, *The Rent Control Controversy: A Consideration of the California Experience*, 4 Glendale L. Rev. 105, 108 (1982) (Rea & Gupta).

32. Those initial attempts to arrest market forces in the rental-housing market and to erode bedrock property rights occurred "entirely" at the "local" level. John W. Willis, *State Rent-Control Legislation, 1946-1947*, 57 Yale L.J. 351, 352 (1948).

33. Los Angeles, for example, introduced its first rent-control ordinance in 1921. But that unprecedented government intervention proved short-lived, as

the ordinance "was … held unconstitutional." John W. Willis, *A Short History of Rent-Control Laws*, 36 Cornell L.Q. 54, 70 n.54 (1950) (discussing L.A., Cal., Ordinance 41,266 (1921)). Other jurisdictions achieved more success before the courts—but only barely. While the Supreme Court in 1921 rejected Takings Clause challenges to separate rent-control laws enacted by the District of Columbia and New York, it did so on the narrow ground that "rent control could be justified *only* as a temporary measure passed in response to a war-generated crisis." Rea & Gupta 109 (emphasis added) (discussing *Block v. Hirsh*, 256 U.S. 138 (1921), and *Marcus Brown Holding Co. v. Feldman*, 256 U.S. 170 (1921)). That emergencies-are-different approach to constitutional rights has not, however, withstood the test of time—in part because, if emergencies expand the powers of government, governments will perceive emergencies everywhere. Indeed, only a few years ago, the Supreme Court admonished that "the Constitution cannot be put away and forgotten" "even in" an emergency like a once-in-a-century global "pandemic." *Roman Cath. Diocese of Brooklyn v. Cuomo*, 592 U.S. 14, 19 (2020) (per curiam).

34. While rent control faded around the Nation with the end of World War I, it emerged again 20 years later amidst World War II—this time, at the behest of the federal government.

35. In 1942, Congress enacted the Emergency Price Control Act, which "authoriz[ed] price ceilings on … residential rents in designated war production areas." Alisa Belinkoff Katz, *"People Are Simply Unable to Pay Rent": What History Tells Us About Rent Control in Los Angeles* 5, UCLA Luskin Ctr. for Hist. & Pol'y (Oct. 2018), https://rebrand.ly/0skel51 (Katz); *see also Bowles v. Willingham*, 321 U.S. 503, 512-13 (1944).

36. Those designated areas included Los Angeles, where rent control began in November 1942 under the auspices of the "Office of Price Administration," which "controlled ceilings and evictions" for over half-a-million properties. Katz 5; *see also* Daniel K. Fetter, *The Home Front: Rent Control and the Rapid Wartime Increase in Home Ownership*, 76 J. Econ. Hist. 1001, 1007-09 (2016), https://rebrand.ly/vav148l.

37. Once World War II ended, however, so too did the justification for rent control. Thus, "market"-based policies returned by 1950, and "decontrolled rents" existed in Los Angeles for nearly 20 years thereafter. Katz 7.

38. The tide turned again in the 1970s. In 1971, President Nixon issued an executive order temporarily freezing rents and other prices nationwide in an attempt to "stabilize the economy [and] reduce inflation." *See* Exec. Order No. 11,615, 36 Fed. Reg. 15,727 (Aug. 17, 1971). But that program, which ultimately ended in 1973, "failed spectacularly and ushered in nearly a decade of so-called

stagflation—high inflation coupled with slow growth, which reduced living standards for millions of Americans." William N. Walker, Opinion, *Nixon Taught Us How Not to Fight Inflation*, Wall St. J. (Aug. 13, 2021), https://rebrand.ly/qo0gdle.

39. Those rapid price increases did not leave the Los Angeles area unscathed. In the second half of the 1970s, "the overall rate of increase in home prices for all of Los Angeles County, adjusted for inflation, was 69%," leading to exorbitant property-tax assessments and in turn forcing landlords to increase rents to keep current on their bills. Katz 8. Eventually, California enacted a state constitutional amendment limiting property-tax increases. But "tenant concern that landlords were not passing on their savings" to tenants to a sufficiently high level prompted Los Angeles to revisit rent control. C. Peter Rydell et al., *The Impact of Rent Control on the Los Angeles Housing Market* 1, RAND (Aug. 1981), https://rebrand.ly/j03euih.

40. To that end, in 1978, Los Angeles enacted an ordinance that "temporarily rolled back recently imposed rent increases, and prohibited most rent increases on residential rental properties for six months." L.A., Cal. Mun. Code §151.01 (discussing L.A., Cal., Ordinance 151,415 (1978)).

B. Los Angeles' RSO Between 1979 and the Onset of the COVID-19 Pandemic

41. Los Angeles' modern rent-control story, however, began in earnest in 1979. That year, following "a long and contentious battle," the City "enacted a one-year-only Rent Stabilization Ordinance (RSO)"—which it subsequently renewed "annually" for several years before making it "permanent" in 1982. Katz 10*; see* L.A. Mun. Code §151.00 *et seq.*

42. The RSO has existed in Los Angeles ever since—for nearly 50 years—and it applies to most multi-family rental properties built on or before October 1, 1978. *See* L.A. Mun. Code §151.02. In other words, except in certain narrow circumstances—such as when a new building is constructed to replace an RSO-regulated building, *see id.* §151.28—the RSO leaves rental properties constructed after October 1, 1978, completely unregulated.

43. While much has changed in the City since 1978, its stock of multi-family rental properties has largely (though not entirely) remained the same. Today, the RSO still applies to "approximately 624,000 units in 118,000 properties," L.A. Hous. Dep't, *What Is Covered Under the RSO*, https://rebrand.ly/jrkz2c2 (last visited Dec. 18, 2024), which equates to "[a]pproximately 76 percent of the multi-family rental units in the City of Los Angeles," L.A. Mun. Code §165.01.

44. Because the majority of Angelenos (approximately 63%) live in renter-occupied housing, and because there are approximately 4 million people living within the City, *see* City of L.A., *Your 2020 Census Guide for Renters* (last visited Dec. 18, 2024), https://rebrand.ly/ibd2s92, the RSO's reach is sweeping.

45. From the outset, the RSO regulated all manner of details of the landlord-tenant relationship, such as by enumerating an exclusive list of the "only" permissible grounds for eviction. *See* L.A. Mun. Code §151.09(A) (1979).

46. Although the RSO contained clear constitutional defects in 1979, the original version at least contemplated that landlords could increase rents in occupied units to some degree "annually," Katz 10; *see* L.A. Mun. Code §151.06 (1979); that they could evict tenants who refused to make their monthly payments, *see id.* §151.09 ("A landlord may bring an action to recover possession of a rental unit" if "[t]he tenant has failed to pay the rent to which the landlord is entitled."); and that they could re-rent at a market rate any unit vacated by an evicted, non-paying tenant, *see* Katz 10; *see* L.A. Mun. Code §151.06(C)(i) (1979) ("If the rental unit was vacated voluntarily or as a result of an eviction or termination of tenancy based on one or more of the grounds described in Section 151.09A1-7 inclusive, the rent may be increased to any amount upon the re-rental of the rental unit."). That dynamic prevailed for several decades.

47. Things have changed dramatically for the worse for landlords in recent years, especially with the onset of the COVID-19 pandemic in 2020. In response to the pandemic, Los Angeles amended the RSO to impose a "prohibition on rent increases" of occupied RSO-regulated rental units, which extended from March 2020 "until one year following the termination of the local emergency." L.A. Mun. Code §151.32. Because the City did not declare an end to the COVID-19-induced local emergency until February 1, 2023, the prohibition on rent increases extended until January 31, 2024—amounting to a nearly four-year period when such restrictions remained in force. *See* L.A. Hous. Dep't, *COVID-19 Renter Protections*, https://rebrand.ly/dg9x86a (last visited Dec. 18, 2024) ("From March 30, 2020 through January 31, 2024, rent increases are prohibited for rental units subject to the Rent Stabilization Ordinance (RSO).").

48. Making matters even more challenging for landlords, for the entirety of the same nearly-four-year period, Los Angeles also imposed a moratorium that prohibited landlords from evicting tenants who did not pay their rent. *See id.*; L.A., Cal., Ordinances 186,585, 186,606 (2020). Hence, even though the City compelled landlords to rent their units at artificially low rates to enable the City to achieve its public-policy objectives of "prevent[ing] … housing displacement" and "prevent[ing] housed individuals from falling into homelessness," L.A. Hous. Dep't, *COVID-19 Renter Protections*, *supra*, landlords had no ability to exercise

their fundamental right to exclude during the pandemic when tenants refused to pay even those below-market rents.

49. From the perspective of landlords, the City had effectively "declar[ed] war" on them, Joshua Kamali, Opinion, *I Believe in Tenants' Rights. But L.A. Is Pushing Out Small Landlords Like Me*, L.A. Times (Jan. 16, 2024), https://rebrand.ly/argh6dp (Kamali), even though—as the Supreme Court has recognized—"many" in their line of work "have modest means," *Ala. Ass'n of Realtors*, 594 U.S. at 765.

50. Los Angeles could scarcely have selected a more inopportune time to wage this war. During the pandemic, inflation hit a 40-year-high and approached double digits in the Los Angeles area. *See* Sam Dean et al., *What Inflation Looks Like in Southern California: 'It's a Losing Battle*,' L.A. Times (June 10, 2022), https://rebrand.ly/d3ix571. All told, prices rose approximately 20% between 2020 and 2024. *See* Alex Bentz, *Inflation Tracker*, Cal. Legis. Analyst's Off. (last visited Dec. 18, 2024), https://rebrand.ly/qrc6a0x. Barred from increasing rent to keep pace with runaway inflation that raised the prices on insurance, appliances, and much more, and unable to exclude non-paying tenants in favor of new tenants willing and able to pay market rates, Los Angeles-area landlords "were … forced to dip into savings and let tenants fall tens of thousands of dollars behind in rent, even selling nest eggs that were supposed to fund them

through retirement." Charlotte Kramon, *L.A. Tenants Welcomed the Rent Freeze, But Landlords Are Tired of Restrictions*, L.A. Times (Aug. 23, 2023), https://rebrand.ly/hdlmatu.

51. Plaintiffs here have firsthand experience with Los Angeles' debilitating pandemic-era restrictions on landlords.

52. Plaintiff Harris, for example, lost $17,000 during the pandemic because of unpaid rent at her 2810 Somerset Drive property. Because of the eviction restrictions in place at the time, however, she could not take steps to exclude any tenants for unpaid rent.

53. Plaintiff Knighten had a similar experience. She lost around $6,000 because of unpaid rent during the pandemic at her 1344 ½ 43rd Place property, but she too could only sit on her hands.

C. Los Angeles' RSO Following the End of the COVID-19 Pandemic

54. When Los Angeles finally declared an end to the local emergency caused by the COVID-19 pandemic, the City could have taken the prudent and constitutional course of making amends with landlords, acknowledging their sacrifices, and treating all of them equally. But the City did well-nigh the

opposite: It chose to enact vehemently anti-landlord ordinances by amending the RSO in certain respects relevant here.[6]

55. First, the City enacted the FMR Eviction Restriction, which further pares down the RSO's already limited exhaustive list of permissible reasons for eviction. *See* L.A. Mun. Code §151.09. The RSO has long recognized two types of permissible evictions: "at-fault" evictions and "no-fault" evictions. The "at-fault" category encompasses scenarios in which the tenant is considered the root cause of the eviction, while the "no-fault" category encompasses scenarios in which the tenant is not considered at fault.[7] Between 1979 and 2020, the City

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[6] In 2019, the California state legislature enacted a statewide rent-control law—AB 1482. Assem. Bill No. 1482, 2019-2020 Reg. Sess. (Cal. 2019). That law authorizes local jurisdictions to preserve or to enact even more restrictive rent-control policies if they so desire. *See* Cal. Civ. Code §§1946.2(i), 1947.12(d)(3). Los Angeles' RSO and the policies challenged here are indeed more restrictive than those in AB 1482, so the City's stock of rental housing in existence on or before October 1, 1978 (and that stock alone) is subject to the RSO's far more restrictive regulations.

[7] At-fault reasons for eviction currently include the following: (1) failure to pay rent, provided that the arrearages exceed the FMR Eviction Restriction; (2) violation of the rental agreement or lease; (3) unreasonable interference with the comfort, safety, or enjoyment of other tenants, or damaging the rental unit or the property; (4) using the rental unit or the common areas of the property for an illegal purpose; (5) refusal to renew a lease or rental agreement of like terms and conditions as before; (6) refusing the landlord reasonable access to the rental unit for repairs and inspections; (7) discovery by the landlord at the end of the lease term that the tenant is not the person who initially rented the unit, and the landlord did not approve this person's tenancy; and (8) failure to relocate temporarily or to

always recognized that a tenant's failure to pay the artificially lowered rent owed to a landlord is a valid "at-fault" reason for eviction.

56. In promulgating the FMR Eviction Restriction, the City departed from that longstanding policy and instead took inspiration from its pandemic-era playbook. In early 2023, Los Angeles amended the RSO to declare that, even in non-emergency or non-pandemic circumstances, landlords could not, in fact, evict tenants who refused to pay their full rent on time. Instead, the City declared that, moving forward, landlords could evict non-paying tenants *only* "where the amount due exceeds one month of fair market rent for the Los Angeles metro area set annually by the U.S. Department of Housing and Urban Development for an

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honor a permanent relocation agreement as required per the Tenant Habitability Plan approved by the L.A. Housing Department. *See* L.A. Hous. Dep't, *Tenant Is At-Fault for Eviction – Owners* (last visited Dec. 18, 2024), https://rebrand.ly/1jexlcp.

No-fault reasons for eviction—which require landlords to pay tenants hefty "relocation assistance" to exercise, *see* ¶¶70-71, *infra*—currently include the following: The landlord (1) wants the rental unit for his own use or a family member; (2) wants the rental unit for the use of a resident manager; (3) wants to demolish or permanently remove the unit from rental housing use; (4) is under orders to vacate the unit or building by a governmental agency, as the result of a legal violation; (5) is the federal government and wants to sell the property that the rental unit is on; (6) owns a Residential Hotel and wants to demolish or convert the building to another use; and (7) wants to convert or build affordable housing accommodations requiring a government-imposed regulatory agreement. *See* L.A. Hous. Dep't, *RSO Units – No Fault Evictions* (last visited Dec. 18, 2024), https://rebrand.ly/k1yfxgj.

equivalent sized rental unit as that occupied by the tenant." L.A. Mun. Code §151.09(A)(1); *see* L.A., Cal., Ordinance 187,763 (2023).

57. To be clear, that "fair market rent" threshold is not the same as the below-market rent that Los Angeles allows property owners to charge. Instead, it is generally a higher amount than a tenant's actual monthly rate due to the rate-suppressing effects of rent control and in some cases is substantially higher. For the period between October 2023 and September 2024, HUD set the fair market rent at $1,777 for an efficiency (or studio) unit; $2,006 for a one-bedroom unit; $2,544 for a two-bedroom unit; $3,263 for a three-bedroom unit; and $3,600 for a four-bedroom unit. *See* L.A. Hous. Dep't, *Renter Protections* (last visited Dec. 18, 2024), https://rebrand.ly/zcc4dua. Recently, moreover, the City announced that the HUD-defined fair market rents for the period between October 2024 and September 2025 are higher still: $1,856 for an efficiency unit; $2,081 for a one-bedroom unit; $2,625 for a two-bedroom unit, $3,335 for a three-bedroom unit; and $3,698 for a four-bedroom unit. *See id.*

58. The upshot of the FMR Eviction Restriction is that—unless one of the limited number of recognized reasons for eviction under the RSO applies (and a landlord's mere desire to rent to a different tenant is not a recognized reason, even if the fixed term in the lease for the current tenant has expired), *see* L.A. Mun. Code §151.09—tenants now have *carte blanche* to serially underpay their

rent without fear of eviction, leaving landlords holding the bag and precluding them from re-renting their units to new tenants who would pay market-based rates in full and on time.[8] *See* L.A. Mun. Code §151.06(C).

59. And the City's contempt for property rights did not stop with the FMR Eviction Restriction. Instead of allowing landlords to increase rents to prices approaching fair market rates after forcing them alone to bear the brunt of a four-year period of stagflation, the City in late 2023 amended the RSO to mandate that rents in occupied rental units remain at extraordinarily low levels.

60. Specifically, for the post-pandemic period between February 1, 2024, and June 30, 2024, the City imposed a maximum rent increase for occupied RSO-regulated rental units of only 4%. *See* L.A. Mun. Code §151.34; L.A., Cal., Ordinance 188,071 (2024). Because that regulation is specific to RSO properties, it applies only to rental properties in existence as of October 1, 1978, not more recently constructed rental properties.

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[8] State law creates even more perverse incentives. Under state law, landlords may evict only for unpaid rent due within the prior 12 months. *See* Cal. Civ. Proc. Code §1161(2). Thus, even if a tenant's total unpaid rent exceeds the HUD-defined fair-market-rent threshold, a landlord may not count any unpaid rent that is more than a year old. And, as noted, the goalposts keep moving, as HUD-established fair market rents tend to increase annually.

61. That 4% Rent-Increase Cap established a ceiling that not only fell well below the overall inflation rate between 2020 and 2024, but also well below the rent increase that the RSO would otherwise authorize in "normal" (by RSO standards) circumstances. Before the pandemic, and in accordance with an ordinance enacted in 1985, Los Angeles would at least allow landlords to increase rents annually to a level that corresponded to the increase in the Consumer Price Index (CPI) for the Los Angeles area for the preceding year ending September 30—subject to a maximum increase of 8%. *See* L.A. Mun. Code §§151.06(D), 151.07(A)(6); *see also* L.A., Cal., Ordinance 159,908 (1985). According to the City's own calculations, that formula would have translated into a 7% increase in rent for the February 2024-June 2024 period alone. *See* L.A. Hous. Dept, *City of Los Angeles Renter Protections Notice* 2 (rev. July 1, 2023), https://rebrand.ly/76njr7y ("The annual allowable rent increase under the RSO from February 1, 2024 through June 30, 2024, will be 7% unless amended by City Council.").

62. The 4% Rent-Increase Cap also imposed a ceiling that fell well below the one that landlords operating non-RSO-regulated properties must stay under. Of course, if Los Angeles had its way, landlords operating properties built after October 1, 1978, could charge any amount of rent that they wanted, as the City has never imposed any rent-increase caps on those newer properties. And

although California in 2019 enacted a statewide rent-control scheme that applies to non-RSO-regulated properties, *see* p.24, n.6, *supra*, that scheme is not nearly as restrictive as the RSO. Under the statewide rent-control scheme, landlords may increase rents annually by either (1) 5% plus the local CPI or (2) 10%—whichever is lower. *See* Cal. Civ. Code §1947.12(a)(1). Pursuant to that formula, landlords operating non-RSO-regulated properties in Los Angeles in the post-pandemic period could increase rents annually at clips well more than double the 4% rate that applied to RSO-regulated properties. In particular, rents at non-RSO-regulated properties could increase by 10% between August 1, 2022, and July 31, 2023; by 8.8% between August 1, 2023, and July 31, 2024; and by 8.9% between August 1, 2024, and July 31, 2025. *See* L.A. Hous. Dep't, *Just Cause for Eviction Ordinance (JCO)*, https://rebrand.ly/p9lfqf6 (archived Nov. 9, 2024); L.A. Hous. Dep't, *What You Need to Know About L.A.'s Renter Protections*, https://rebrand.ly/y7ihvs9 (archived Sept. 30, 2024).

63. Accordingly, by limiting allowable rent increases for RSO-regulated properties to just 4% in the post-pandemic period, the 4% Rent-Increase Cap created a blueprint for RSO-regulated landlords to go into (or remain in) the red.

64. While the June 30, 2024, cutoff date for the 4% Rent-Increase Cap, which the City itself labeled a "temporary" policy, L.A. Mun. Code §151.34, at least raised hope among RSO-regulated landlords that they could soon put this

crushing stretch of anti-landlord policies behind them, the City quickly dashed that hope too. In 2024, the City announced that it had opted to extend the 4% Rent-Increase Cap for another year, such that rent increases for RSO-regulated properties will again remain limited to 4% from July 1, 2024, through June 30, 2025 (at the very least). *See* L.A. Hous. Dep't, *Attn: Tenants & Landlords*, https://rebrand.ly/dpls81n (archived Aug. 8, 2024) ("Annual rent increases for rental units subject to the City of Los Angeles Rent Stabilization Ordinance (RSO), effective July 1, 2024, through June 30, 2025, is 4%." (emphasis removed)).

65. The City is strict when it comes to these rent caps too, as the RSO offers no exceptions that would allow a landlord to increase an existing tenant's rent to a market-based rate even when the circumstances plainly warrant such an increase. Although the RSO provides that a "Rent Adjustment Commission" may "grant increases in the rent" under certain circumstances when landlords make such requests, the RSO is explicit that "a rent adjustment will not be permitted" "[i]f the only justification offered for the requested rent increase on the landlord's application is an assertion that the maximum rents or maximum adjusted rents permitted … do not allow the landlord a return sufficient to pay both the operating expenses and debt service on the rental unit or units or on the housing complex containing the rental unit or units." L.A. Mun. Code §151.07(B).

66. More fundamentally, even for those lucky few who manage to offer a justification to the Rent Adjustment Commission's satisfaction, the City has already made its position clear that its rent-adjustment program is "not a mechanism to bring the rents to market rate." L.A. Hous. Dep't, *Just & Reasonable Rent Adjustment Program* (Apr. 2, 2024), https://rebrand.ly/xdfilq8.

67. Violations of the RSO are not taken lightly. During the COVID-19 pandemic, the City amended the RSO to state that "[a]ny person violating any of the provisions, or failing to comply with any of the requirements, of [the RSO] shall be guilty of a misdemeanor." L.A. Mun. Code §151.10(B); *see* L.A., Cal., Ordinance 187,109 (2021). Each misdemeanor, the RSO continues, is punishable by a fine of up to $1,000 or by a prison term of up six months—"or both." L.A. Mun. Code §151.10(B). And the RSO also states that "each day during which [a] violation is committed, or continues, shall constitute a separate offense." *Id.*

68. In addition, as to the 4% Rent-Increase Cap in particular, the RSO provides a mechanism for a tenant to obtain a treble-damages award from a landlord who violates that provision: "Any person who demands, accepts or retains any payment of rent in excess of the maximum rent or maximum adjusted rent in violation of the provisions of this chapter, or any regulations or orders promulgated hereunder, shall be liable in a civil action to the person from whom such payment is demanded, accepted or retained for damages of three times the

amount by which the payment or payments demanded, accepted or retained exceed the maximum rent or maximum adjusted rent which could be lawfully demanded, accepted or retained together with reasonable attorneys' fees and costs as determined by the court." *Id.* §151.10(A).

69. Given the difficulties of making ends meet as a landlord in Los Angeles these days and the severe punishments inflicted on those who try, it should come as no surprise that many landlords are leaving the rental business altogether—including experienced landlords and even landlords who "believe in rent control" as a policy matter. Kamali, *I Believe in Tenants' Rights.*, *supra*.

70. But Los Angeles does not make such an exit easy. For example, whenever landlords themselves wish to regain the use of rental units for "no-fault" personal or business reasons—*e.g.*, if landlords merely wish to recover units for family use because tenants are abusing the FMR Eviction Restriction and not paying their full rent even though they have sufficient funds to do so—landlords must abide by the Relocation-Fee Requirement, which requires them to pay anywhere from $9,900 to $25,700 in "relocation assistance" to the tenants (on top of various administrative fees to the City). *See* L.A. Mun. Code §§151.09(A)(8), (G), 151.30(E); *see also* L.A. Hous. Dep't, *Relocation Assistance Information* (Mar. 23, 2023), https://rebrand.ly/4a4qlbn; L.A. Hous. Dep't, *Rent Stabilization Bulletin: Relocation Assistance* (June 26, 2024), https://rebrand.ly/bo6hpzi. Such

exorbitant sums are often unrealistic even for the most successful landlords, let alone for landlords of limited means—especially those who have suffered heavy losses because of the City's anti-landlord policies in recent years.

71. Furthermore, if the tenant in the relevant unit has resided there for at least 10 years and is either at least 62 years old or disabled, that tenant is considered a "protected tenant," and the procedure is even more burdensome for a landlord. *See* L.A. Mun. Code §151.30(D). In that circumstance, the landlord can reclaim the rental unit for family use only by removing *all* rental units in the property from the rental market entirely, and the landlord must provide notice of her intent to effect such a removal one year beforehand. *See id.* §§151.09(A)(10), 151.23(B). After announcing that intent, the landlord must promptly pay the same exorbitant relocation fees to *all* of her tenants (or alternatively place those funds in an escrow account), and she is required to let those tenants remain in their units for the duration of the year. *See id.* 151.09(G), (G)(2). Only after one year passes, and only after substantial relocation fees are paid, is the landlord able to reclaim her own property for her own use.

72. Thus, once a tenant gets a foot in the door of an RSO-regulated rental unit, it is exceedingly difficult for a landlord to get that person out or reclaim ownership in fee. As a result, unless owners of rental properties sell their properties to third parties (who will find themselves subject to the same

restrictions, which therefore depresses the sales price of the property), they have no choice but to live with the consequences of the FMR Eviction Restriction, 4% Rent-Increase Cap, and Relocation-Fee Requirement.

73. Those consequences include explicitly informing their tenants of each of those regulations. As a result of the Renter Protections Notice Requirement, RSO-regulated landlords "must … post[] … in an accessible common area of the property" a City-drafted notice that walks through the FMR Eviction Restriction, 4% Rent-Increase Cap, and Relocation-Fee Requirement. L.A. Hous. Dep't, *Protections Notice*, https://rebrand.ly/nfrnu6z (last visited Dec. 18, 2024); L.A. Hous. Dep't, *City of Los Angeles Renter Protections Notice* (rev. Oct. 1, 2024), https://rebrand.ly/xkc988z; *see also* L.A. Mun. Code §165.05(A). As this requirement demonstrates, the City is not content to erect a scheme that erodes fundamental property rights, like the right to exclude. Instead, the City conscripts landlords to act as accomplices in the effort and compels them to communicate property-rights-destroying messages to their own tenants.

D. Los Angeles' Restrictions Are Injuring Plaintiffs

74. Plaintiffs' experiences vividly illustrate the impacts that Los Angeles' FMR Eviction Restriction, 4% Rent-Increase Cap, Relocation-Fee Requirement, and Renter Protections Notice Requirement are having to real people on the ground.

75. Plaintiff Harris is a 63-year-old teacher born and raised in Los Angeles who, in the early 1990s, purchased two rental properties in the Jefferson Park and Mid-City neighborhoods of the City, near where she grew up. Plaintiff Harris hoped that those properties, which collectively have seven rental units, would allow her to support her and her family. But thanks to the FMR Eviction Restriction, 4% Rent-Increase Cap, Relocation-Fee Requirement, and Renter Protections Notice Requirement, those plans have now hit a major roadblock. At the 2810 Somerset Property, for example, one of Plaintiff Harris' tenants—who had a monthly rent for a one-bedroom unit of just $1,134/month—consistently refused to pay his full rent on time in the wake of the enactment of the FMR Eviction Restriction. But because the HUD-defined "fair market rent" for a comparable unit is nearly double that amount, Plaintiff Harris could not evict unless the tenant went two full months without paying. The tenant never crossed that line—presumably because the City required Plaintiff Harris to tell the tenant all about the FMR Eviction Restriction via the Renter Protections Notice Requirement. *See* L.A. Housing Dep't, *Protections Notice*, *supra*; *see also* L.A. Mun. Code §165.05(A). Plaintiff Harris has also consistently wanted to increase the monthly rent at all of her units at both properties without government restriction in order to keep pace with ballooning costs that she cannot control. But the 4% Rent-Increase Cap—which she would not have to abide by if only she

owned a property built after October 1, 1978—has prohibited her from doing so. The 4% Rent-Increase Cap has instead limited the monthly rents to $777.54, $927.00, $1,000.00, $1,012.00, and $1,134.00 for her one-bedroom units, and $1,018.00 for her two-bedroom unit. Plaintiff Harris therefore has had to exhaust her savings to cover her expenses, and she has found herself living paycheck-to-paycheck. To make ends meet, Plaintiff Harris decided to sell one of her RSO-regulated properties (the property at 2810 Somerset Drive) on November 25, 2024. And although Plaintiff Harris would like to reclaim two units in her remaining three-unit property (2122 Vineyard Avenue) for family use,[9] she would have to take all three rental units off the rental market entirely to do so because the tenants in those two units are "protected tenants." In addition, because of the tenants' protected status, Plaintiff Harris would have to pay each of those tenants $25,700 in relocation fees in accordance with the Relocation-Fee Requirement—and even then, she could not reclaim her property for family use until after she waited a whole year.

[9] Plaintiff Harris is currently leaving the third unit vacant because she is afraid to lease to yet another tenant who fails to make timely payments and because she is concerned that she cannot afford the applicable relocation fees, thus allowing the tenant to remain in the unit indefinitely over her objection as a result of all of the RSO's tenant protections.

76. Plaintiff Knighten has faced similar challenges. Plaintiff Knighten is a 68-year-old originally from Compton who previously worked as a community-services director for a Southern California municipality. In the 1930s, Plaintiff Knighten's grandfather acquired several rental properties in Los Angeles—including 1344 East 43rd Place and 5526 Compton Avenue, which together contained five units—and began renting them to locals. Plaintiff Knighten's father later inherited those properties, and he in turn left them to Plaintiff Knighten to oversee through a trust for the benefit of her own children. Although Plaintiff Knighten hoped to keep the two rental properties in her family forever, the City's regulations have made those plans untenable. At the 1344 East 43rd Place property, for instance, one tenant of a studio unit consistently refused to pay his full (and substantially below-market) rent of $520/month in the aftermath of the enactment of the FMR Eviction Restriction. Yet because the threshold for eviction under the FMR Eviction Restriction is over three times the tenant's monthly rent, and because the tenant studiously kept his arrearages below that threshold (presumably because Plaintiff Knighten had to provide constant reminders of the threshold to comply with the Renter Protections Notice Requirement), Plaintiff Knighten had no ability to evict or exclude him from the property. And even though the cost of maintaining her properties has gone through the roof in recent years, the City's 4% Rent-Increase Cap—which she

would not have to comply with but for the date of construction of her properties—precluded her from obtaining the market-based rents that could provide the revenue necessary to make continued ownership sustainable. Instead, in the post-pandemic period, Plaintiff Knighten could charge only a maximum of $520/month for her studio unit, $686/month for her one-bedroom units, and $975/month and $1,000/month for her two-bedroom units—rates that are at least $1,000 below the HUD-defined "fair market rates." Because of the effects of the FMR Eviction Restriction and 4% Rent-Increase Cap, Plaintiff Knighten sold one of her RSO-regulated properties in August 2024—1344 East 43rd Place—and she is contemplating selling the remaining property. If that occurs, the City would have successfully removed from its market for rental housing a family that has participated in it since before World War II.

CLAIMS FOR RELIEF

COUNT ONE
Takings Clause of the Fifth Amendment to the U.S. Constitution
42 U.S.C. §1983
"Fair Market Rent" Eviction Restriction

77. Plaintiffs incorporate by reference the allegations contained in the preceding paragraphs of this Complaint as though fully set forth herein.

78. The Takings Clause of the Fifth Amendment, applicable to the states and local governments through the Fourteenth Amendment, provides: "[N]or

shall private property be taken for public use, without just compensation." U.S. Const. amend. V.

79. As the Supreme Court has long explained, "[b]y requiring the government to pay for what it takes, the Takings Clause saves individual property owners from bearing 'public burdens which, in all fairness and justice, should be borne by the public as a whole.'" *Sheetz v. Cnty. of El Dorado*, 601 U.S. 267, 273-74 (2024) (quoting *Armstrong*, 364 U.S. at 49).

80. Before the 20th century, the Supreme Court recognized only one type of takings claim—a "physical taking." *See Horne v. Dep't of Agric.*, 576 U.S. 350, 360 (2015). Since the 1920s, however, the Supreme Court has also recognized a second type of takings claim—a "regulatory taking." *See Pa. Coal Co. v. Mahon*, 260 U.S. 393, 415 (1922). Each of these takings claims involves a different test.

81. The test in the physical-takings context is straightforward: "When the government physically acquires private property for a public use, the Takings Clause imposes a clear and categorical obligation to provide the owner with just compensation." *Cedar Point*, 594 U.S. at 147.

82. The test in the regulatory-takings context, by contrast, is "ad hoc." *Penn Cent.*, 438 U.S. at 124. As the Supreme Court has explained, while the government may "impose[] regulations that restrict an owner's ability to use his own property," a regulation that "goes too far … will be recognized as a taking."

Cedar Point, 594 U.S. at 148 (citing *Pa. Coal*, 260 U.S. at 415). "To determine whether a use restriction effects a taking," the Supreme Court "generally" utilizes the test set forth in *Penn Central Transportation Co. v. City of New York*, which "balanc[es] factors such as the economic impact of the regulation, its interference with reasonable investment-backed expectations, and the character of the government action." *Id.*

83. But the *Penn Central* balancing test has "no place" when the government "appropriates for the enjoyment of third parties the owners' right to exclude," *id.* at 149, or "otherwise interfere[s] with the owner's right to exclude others from it," *Sheetz*, 601 U.S. at 274. "That sort of intrusion on property rights is a *per se* taking"—*i.e.*, a physical taking—that automatically "trigger[s]" the "right to compensation." *Id.*

84. Applying that categorical approach to an appropriation of the right to exclude makes good sense. As Blackstone explained long ago, "the very idea of property entails 'that sole and despotic dominion which one man claims and exercises over the external things of the world, in total exclusion of the right of any other individual in the universe.'" *Cedar Point*, 594 U.S. at 149-50 (quoting 2 William Blackstone, *Commentaries on the Laws of England* 2 (1766)). Or as influential commentators have put it more recently: "Deny someone the exclusion right and they do not have property." Thomas W. Merrill, *Property and the Right*

to Exclude, 77 Neb. L. Rev. 730, 730 (1998). Consistent with these pronouncements, the Supreme Court has repeatedly admonished that the "right to exclude others" is "one of the most essential sticks in the bundle of rights that are commonly characterized as property." *Kaiser Aetna v. United States*, 444 U.S. 164, 176 (1979); *see also, e.g.*, *Loretto v. Teleprompter Manhattan CATV Corp.*, 458 U.S. 419, 435 (1982) ("The power to exclude has traditionally been considered one of the most treasured strands in an owner's bundle of property rights."). For that reason, government appropriation of the right to exclude is a taking that necessarily demands payment of just compensation.

85. The Supreme Court recently reaffirmed those principles in 2021 in *Cedar Point*. That case concerned a California regulation that "grant[ed] union organizers a right to physically enter and occupy [fruit] growers' land for three hours per day, 120 days per year." *Cedar Point*, 594 U.S. at 149. The Court had no trouble concluding that, "[r]ather than restraining the growers' use of their own property, the regulation appropriates for the enjoyment of third parties the owners' right to exclude"—so "the growers' complaint states a claim for an uncompensated taking in violation of the Fifth and Fourteenth Amendments." *Id.* at 149, 152; *see also id.* at 158 ("Our cases establish that appropriations of a right to invade are *per se* physical takings, not use restrictions subject to *Penn Central*[.]"). Regardless of whether the physical invasion is "permanent or

temporary," the Court continued, it is a physical "taking" all the same, and the government "must pay." *Id.* at 153-54.

86. Just two months after issuing *Cedar Point*, the Supreme Court applied similar reasoning in the landlord-tenant context specifically. In *Alabama Association of Realtors*, the Cout addressed—in the context of an emergency stay application—whether the Centers for Disease Control and Prevention (CDC) had statutory authority to establish a nationwide eviction moratorium during the COVID-19 pandemic, including in circumstances where tenants did not pay their rent. On the merits, the Court found the answer to that statutory question almost certainly no. And as especially relevant here, the Court found that the equities did not favor the government in the stay analysis because "preventing [landlords] from evicting tenants who breach their leases intrudes on one of the most fundamental elements of property ownership—the right to exclude." 594 U.S. at 765 (citing the physical-takings case *Loretto*, 458 U.S. at 435).

87. Courts of appeals confronting landlord-tenant-related disputes have recognized the critical importance of these decisions too. In *Heights Apartments LLC v. Walz*, for example, the Eighth Circuit held that landlords stated a viable physical-takings claim when they challenged an executive order mandating a statewide residential eviction moratorium in Minnesota. 30 F.4th 720, 733 (8th Cir. 2022). As the court reasoned, "*Cedar Point Nursery* controls" the analysis

where landlords allege that the government has "deprived" them of their "right to exclude existing tenants without compensation." *Id.*

88. Similarly, in *Darby Development Co., Inc. v. United States*, 112 F.4th 1017 (Fed. Cir. 2024), the Federal Circuit concluded that landlords challenging the CDC's pandemic-era eviction moratorium (the same one addressed in *Alabama Association of Realtors*) as a physical taking had stated a plausible claim for relief. As the Federal Circuit observed after reviewing *Cedar Point*, "we cannot reconcile how forcing property owners to occasionally let union organizers on their property infringes their right to exclude, while forcing them to house non-rent-paying tenants (by removing their ability to evict) would not." *Id.* at 1035. And the court also found its "conclusion in this regard … only bolstered by the Supreme Court's observation in *Alabama Association of Realtors* that … 'preventing landlords from evicting tenants who breach their leases … intrudes on one of the most fundamental elements of property ownership—the right to exclude.'" *Id.* at 1036 (brackets omitted).

89. This same logic confirms that Los Angeles' FMR Eviction Restriction effects a physical taking, which requires the City to pay just compensation.

90. As the Supreme Court has now made clear beyond peradventure, "one of the most fundamental elements of property ownership" for a landlord is

"the right to exclude" tenants who fail to make required "rent payments." *Ala. Ass'n of Realtors*, 594 U.S. at 765.

91. The FMR Eviction Restriction self-evidently prohibits landlords from exercising that right. That provision provides that, even if a tenant is not paying his rent, a landlord is *not* allowed to evict—*i.e.*, exclude—the tenant from the rental unit unless and until the outstanding amount "exceeds one month of fair market rent for the Los Angeles metro area set annually by the U.S. Department of Housing and Urban Development for an equivalent sized rental unit as that occupied by the tenant." L.A. Mun. Code §151.09(A)(1). The FMR Eviction Restriction thus allows tenants to breach lease terms regulating payment, depriving property owners of their right to exclude tenants who refuse to pay even the artificially low rents that Los Angeles allows pre-1978 property owners to charge. *See* ¶¶55-58, *supra*. The fact that Los Angeles uses rates that at least come closer to approximating market conditions when protecting tenants, while limiting property owners to far lower rates, adds insult to constitutional injury. There is simply no way to understand the FMR Eviction Restriction as anything other than a government effort to "appropriate[] for the enjoyment of third parties the owners' right to exclude," which "constitutes a *per se* physical taking." *Cedar Point*, 594 U.S. at 149.

92. If anything, the physical takings here are even more obvious than in *Cedar Point*. While the regulation at issue in *Cedar Point* granted union organizers a right to physically invade private property essentially for only three hours every third day, *see id.* at 152, Los Angeles' FMR Eviction Restriction allows non-paying tenants to occupy private property for 24 hours every single day and to do so indefinitely, so long as their overdue rent does not exceed the threshold that the City has established. It is impossible to "reconcile" the theory that the former constitutes a physical taking while the latter does not. *See Darby Dev.*, 112 F.4th at 1035.

93. That has not stopped some courts from trying to bridge that divide, but their reasoning is unpersuasive. When evaluating other eviction restrictions, some courts have suggested—in nonprecedential, unpublished opinions that rely on the Supreme Court's decision in *Yee v. City of Escondido*, 503 U.S. 519 (1992)—that a landlord's voluntary decision to enter the rental-housing market somehow precludes a physical-takings claim. *See, e.g.*, *El Papel, LLC v. City of Seattle*, 2023 WL 7040314, at *2 (9th Cir. Oct. 26, 2023); *Bols v. Newsom*, 2024 WL 208141, at *1 (9th Cir. Jan. 19, 2024); *GHP Mgmt. Corp. v. City of Los Angeles*, 2024 WL 2795190, at *1 (9th Cir. May 31, 2024); *cf. Kagan v. City of Los Angeles*, 2022 WL 16849064, at *1 (9th Cir. Nov. 10, 2022). But even before *Cedar Point*, the Supreme Court already squarely rejected the proposition that a

physical taking cannot occur when an individual has made a voluntary choice to enter a regulated market. *See, e.g.*, *Horne*, 576 U.S. at 365 ("The Government contends that the reserve requirement is not a taking because raisin growers voluntarily choose to participate in the raisin market. … [T]he Government is wrong as a matter of law."). In fact, the Supreme Court did just that in the landlord-tenant context specifically, explaining that "a landlord's ability to rent his property may not be conditioned on his forfeiting the right to compensation for a physical occupation." *Loretto*, 458 U.S. at 439 n.17.

94. Nor does anything in *Cedar Point* suggest that owners forfeit their right to receive just compensation for physical appropriations just because they voluntarily participate in a regulated industry. Quite the opposite: The Supreme Court in *Cedar Point* looked to its prior decisions in *Loretto* and *Horne* for guidance, *see, e.g.*, 594 U.S. at 151-52, and both cases fatally undermine the view that a physical taking cannot occur when an individual has made a voluntary choice to enter the regulated market. After all, *Loretto* involved a landlord who voluntarily entered the rental-housing market in New York City, and *Horne* involved raisin growers and handlers who voluntarily entered the produce market in California.

95. To be sure, the Supreme Court in *Cedar Point* observed that precedent supports the notion that, once a property owner voluntarily decides to

open property to the *general* public—like a shopping mall that welcomes all comers—the government can ensure access for particular uses that the government favors. *See id.* at 156-57 (distinguishing properties like shopping malls that are "generally open to the public" and that "welcom[e] some 25,000 patrons a day"). But rental properties are not open to the general public; to the contrary, landlords generally *exclude* the general public and welcome only tenants and their invitees, subject to the terms of a lease (including its payment terms). And while it is certainly true that property owners voluntarily invite that finite group of third parties onto their properties, that makes them far more like the nursery in *Cedar Point* (which likewise limited access to specific people, like agricultural workers) than the shopping mall in *PruneYard Shopping Center v. Robins*, 447 U.S. 74 (1980).

96. Some courts have also suggested that a physical-taking cannot occur in the landlord-tenant context, unless the alleged taking occurs "in perpetuity," *GHP Mgmt.*, 2024 WL 2795190, at *1, or if the government preserves at least some theoretical avenue to eviction, *see, e.g.*, *El Papel*, 2023 WL 7040314, at *2; *Bols*, 2024 WL 208141, at *1. Those theories are equally unavailing. *Cedar Point* explicitly states that "a physical appropriation is a taking whether it is permanent or temporary" and that "[t]he duration of an appropriation … bears only on the amount of compensation." 594 U.S. at 153. And the fact that the property owners

in *Cedar Point* had some theoretical ability to evict—*e.g.*, if the union organizers remained on the property for just one minute beyond the three-hour mark—clearly did not eliminate the taking.

97. In short, Los Angeles' FMR Eviction Restriction has unquestionably accomplished physical takings of Plaintiffs' property. The City therefore has a categorical duty to provide just compensation to them.

98. In the alternative, the FMR Eviction Restriction amounts to a regulatory taking, as all three *Penn Central* factors underscore. *See Heights Apartments*, 30 F.4th at 735 ("As an alternative to the physical takings claim, Heights has sufficiently alleged that the EOs may constitute a compensable, non-categorical regulatory taking.").

99. First, the "economic impact of the regulation on the claimant[s]" here is severe. *Penn Cent.*, 438 U.S. at 124. As noted, the FMR Eviction Restriction has "deprived" Plaintiffs of their ability to "receiv[e] rental income and manag[e] [their] property according to the leases' terms" and longstanding principles of property law. *Heights Apartments*, 30 F.4th at 734; *see* ¶¶55-58, 86-97, *supra*. In fact, the economic impact is so severe that it has contributed to decisions from both Plaintiffs to sell some of their RSO-regulated properties, including properties that they or their family members have owned for decades.

100. Second, the FMR Eviction Restriction plainly "interferes with reasonable investment-backed expectations." *Tahoe-Sierra Pres. Council, Inc. v. Tahoe Reg'l Plan. Agency*, 535 U.S. 302, 315 n.10 (2002). When they entered the rental-housing market in Los Angeles, Plaintiffs could never have anticipated that the City would authorize tenants to remain in possession of their units even if they did not pay their rent. Indeed, Los Angeles took a step like that for the first time only with the onset of the COVID-19 pandemic, even though Plaintiffs began operations well before that point, and then refused to return to the normal order when the pandemic receded. *See* ¶¶46-58, 74-76, *supra*.

101. Finally, the "character of the governmental action" confirms the existence of a taking. *Penn Cent.,* 438 U.S. at 124. *Penn Central* states that a regulatory taking "may more readily be found when the interference with property can be characterized as a physical invasion by government." *Id.* That is the situation here. By providing government authorization for tenants to occupy Plaintiffs' property even if they are not paying their rent, the FMR Eviction Restriction amounts to a clear-cut physical invasion—as multiple courts have concluded in similar circumstances and as explained above. *See* ¶¶86-97, *supra*.

102. If the FMR Eviction Restriction somehow passes muster under the *Penn Central* test, however, the Supreme Court would have no choice but to revisit that test, which is not actually "ground[ed] ... in the Constitution as it was

originally understood." *Murr v. Wisconsin*, 582 U.S. 383, 419 (2017) (Thomas, J., dissenting); *see also Bridge Aina Le'a, LLC v. Haw. Land Use Comm'n*, 141 S. Ct. 731, 731 (2021) (Thomas, J., dissenting from denial of certiorari); *First Eng. Evangelical Lutheran Church v. Cnty. of Los Angeles*, 482 U.S. 304, 340 n.17 (1987) (Stevens, J., dissenting); *Nekrilov v. City of Jersey City*, 45 F.4th 662, 681 (3d Cir. 2022) (Bibas, J., concurring).

103. A faithful application of existing doctrine, however, leaves no doubt that Plaintiffs are entitled to just compensation right now for the uncompensated takings that Los Angeles' FMR Eviction Restriction has effected.

COUNT TWO
Takings Clause of the Fifth Amendment to the U.S. Constitution
42 U.S.C. §1983
4% Rent-Increase Cap

104. Plaintiffs incorporate by reference the allegations contained in the preceding paragraphs of this Complaint as though fully set forth herein.

105. The Takings Clause of the Fifth Amendment, applicable to the states and local governments, through the Fourteenth Amendment, provides: "[N]or shall private property be taken for public use, without just compensation." U.S. Const. amend. V.

106. As noted, the Supreme Court in *Cedar Point* held that the government engages in a *per se* physical taking when it appropriates a property owner's right to exclude for the enjoyment of third parties. *See* 594 U.S. at 149.

107. While *Cedar Point* arose in the specific context of a law regulating access to private property by union organizers, its application is not limited to identical fact patterns, as decisions post-dating *Cedar Point* confirm. *See* ¶¶86-88, *supra*.

108. As commentators have observed, moreover, "[p]erhaps the most obvious applications … of *Cedar Point* would be to … rent control ordinances." Aziz Z. Huq, *Property Against Legality: Takings After* Cedar Point, 109 Va. L. Rev. 233, 261-62 (2023).

109. The "application of [*Cedar Point*] to rent regulations is straightforward: By enacting laws that limit landlords' ability to control whom they rent their property to [and] how much they rent their property for, … the government appropriates from the landlords their right to exclude for the enjoyment of the occupying tenants, who may remain in situ despite the landlord's desire to rent … the apartment at market rate." Abigail K. Flanigan, Note, *Rent Regulations After* Cedar Point, 123 Colum. L. Rev. 475, 498 (2023).

110. Numerous other commentators have likewise recognized that the logic of *Cedar Point* supports the position that efforts to cap the rents that

landlords may charge are constitutionally suspect. *See, e.g.*, Sam Spiegelman, *Rent Controls and the Erosion of Takings-Clause Protections: A Sordid History with Recent Cause for Optimism*, 51 Fordham Urb. L.J. 357, 359 (2023) ("Modern rent controls," including "statutes and regulations that control prices," are "ideal target[s]" for *Cedar Point*'s application.); Nikolas Bowie, *Antidemocracy*, 135 Harv. L. Rev. 160, 197 (2021) (noting that "rent-control policies … prohibit landlords from excluding people from their property," so *Cedar Point* "threatens" those policies); Richard Epstein, *A Bombshell Decision on Property Takings*, Hoover Inst. (June 28, 2021), https://rebrand.ly/jnjjgrh ("[A]fter *Cedar Point*," "[i]t is pure sophistry to claim that the state does not engage in a taking when it authorizes a tenant to stay continuously in possession of the leased premises after the expiration of the lease at a rent that is consciously set below market value.").

111. These principles doom the 4% Rent-Increase Cap. When first enacted, the 4% Rent-Increase Cap provided that landlords could not increase rents of occupied units subject to the RSO by more than 4% between February 1, 2024, and June 30, 2024. *See* L.A. Mun. Code §151.34. The City has since extended that rent-increase cap so that it likewise applies to the period between July 1, 2024 and June 30, 2025. *See* ¶64, *supra*. As a result, for at least that 17-month period, the City has proclaimed it "unlawful for any landlord to demand, accept or retain" a rent increase in excess of 4%. L.A. Mun. Code §151.04(A).

In other words, even if landlords (like Plaintiffs here) desire to exclude tenants who do not pay market-based rates, the existing tenants nevertheless have government approval to remain in their units at below-market rates.

112. Because the 4% Rent-Increase Cap also appropriates the right to exclude from Plaintiffs, it too effects a *per se* physical taking, and Los Angeles "must compensate [Plaintiffs] at fair market value." *Sheetz*, 601 U.S. at 273.

113. This claim is ripe for review. While the RSO provides a narrow mechanism for landlords to seek departures from City-imposed rent caps, *see* L.A. Mun. Code §151.07(B), the RSO itself acknowledges that this is "not a mechanism to bring the rents to market rate," L.A. Hous. Dep't, *Just & Reasonable Rent Adjustment Program*, *supra*, which is what Plaintiffs wished to charge, *see* ¶¶75-76, *supra*. Hence, because "there is no question about the city's position" in this area, the claim here is ripe. *Pakdel v. City & Cnty. of San Francisco*, 594 U.S. 474, 478 (2021).

114. In the alternative, the *Penn Central* factors again confirm that the 4% Rent-Increase Cap qualifies as a regulatory taking.

115. First, the considerable economic impact on Plaintiffs' property is undeniable. Even though inflation increased by 20% between 2020 and 2024, and even though Los Angeles prohibited all rent increases during that time, the 4% Rent-Increase Cap still limits rent increases to a level that is only a small fraction

of that overall rate of inflation. And even though Los Angeles recognizes that "fair market rates" that account for inflation and other factors are readily identifiable for the kinds of rental units subject to the RSO (*i.e.*, the HUD-defined fair market rates), the City nevertheless obligated Plaintiffs to rent their properties at rates far below those rates—even 50% or more below market rates. The economic impact thus is palpable.

116. Second, the 4% Rent-Increase Cap interferes with reasonable investment-backed expectations, as no landlord could reasonably have expected that, in response to an unprecedented global pandemic, the City would take the unprecedented step of prohibiting rent increases entirely between March 2020 and January 2024—a time when inflation jumped by 20%—and then follow up that policy by limiting permissible rent increases to just 4% between February 2024 and June 2025. That is especially true considering that, for the February 2024-June 2024 period alone, the rent-increase formula enshrined in the RSO since 1985 would authorize an increase of 7%. *See* ¶61, *supra*.

117. Finally, the character of the governmental action—authorization for third parties to stay in possession of private property at rates consciously set below market levels—makes the taking even "more readily" apparent, as that type of action "can be characterized as a physical invasion by government" for all the reasons provided above. *Penn Cent.,* 438 U.S. at 124.

118. Accordingly, whether analyzed under the physical-takings test or the regulatory-takings test, the result here is the same: Plaintiffs are entitled to just compensation for the uncompensated takings effected by the City's 4% Rent-Increase Cap.

COUNT THREE
Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution
42 U.S.C. §1983
4% Rent-Increase Cap

119. Plaintiffs incorporate by reference the allegations contained in the preceding paragraphs of this Complaint as though fully set forth herein.

120. The Equal Protection Clause of the Fourteenth Amendment bars states and local governments from "deny[ing] to any person within its jurisdiction the equal protection of the laws." U.S. Const. amend XIV, §1, cl. 4.

121. The Supreme Court has held that this clause protects individuals who "ha[ve] been intentionally treated differently from others similarly situated" by the government with respect to their fundamental rights, *see Plyler*, 457 U.S. at 216-17, or when "there is no rational basis for the difference in treatment," *Vill. of Willowbrook v. Olech*, 528 U.S. 562, 564 (2000) (per curiam); *see Soto-Lopez*, 476 U.S. at 904 ("Whenever a state law infringes a constitutionally protected right, we undertake intensified equal protection scrutiny of that law."); *City of New Orleans v. Dukes*, 427 U.S. 297, 303 (1976) (per curiam) (explaining that, in

the equal-protection context, regulations that "affect fundamental rights" trigger more than rational-basis review).

122. Los Angeles' 4% Rent-Increase Cap plainly violates those principles. It subjects landlords who own properties regulated by the RSO—*i.e.*, landlords who own rental properties built on or before October 1, 1978—to a burdensome cap on rent increases for the 17-month period between February 1, 2024, and June 30, 2025, and couples it with the threat of steep penalties and a hefty treble-damages award if a tenant sues to ensure compliance. *See* L.A. Mun. Code §§151.04(A), 151.08, 151.10, 151.34; *see* L.A. Hous. Dep't, *Attn: Tenants & Landlords*, *supra*. Meanwhile, the City imposes no rent-increase caps at all on landlords who own properties built after October 1, 1978. That difference in treatment is as intentional as it gets, and it implicates the fundamental rights to own property and decide to whom to grant access to that property. *See, e.g.*, *Plyler*, 457 U.S. at 217 n.15 (explaining that, when seeking to establish whether a right is fundamental, courts "look to the Constitution to see if the right infringed has its source, explicitly or implicitly, therein"); *Cedar Point*, 594 U.S. at 149-50 (holding that the right to exclude is a fundamental element of property ownership that merits protection under the Takings Clause).

123. The City's approach is particularly objectionable because landlords whose multi-family rental properties are subject to the RSO's newly instituted 4%

Rent-Increase Cap are "similarly situated … in all material respects" to those landlords owning multi-family rental properties post-dating October 1, 1978, that are not so limited. *SmileDirectClub, LLC v. Tippins*, 31 F.4th 1110, 1123 (9th Cir. 2022). The City has already recognized as much. The Los Angeles Municipal Code, for example, explains that "[a]pproximately 76 percent of the multi-family rental units in the City of Los Angeles are regulated by the [RSO]" and that the remainder of the multi-family rental stock falls outside its strictures. L.A. Mun. Code §165.01. That finding is an acknowledgment that RSO and non-RSO properties together make up the class of "multi-family rental units" in Los Angeles. In addition, the City applies the FMR Eviction Restriction and Relocation-Fee Requirement to non-RSO properties, further underscoring that those properties are similarly situated. *See* L.A. Hous. Dep't, *City of Los Angeles Renter Protections Notice* (rev. Oct. 1, 2024), *supra*.

124. Thus, the City must at least present a rational reason to justify its dissimilar treatment of rental properties built on or before October 1, 1978. But no such legitimate reason exists. Indeed, the City's approach gets things exactly backwards. Older properties are the ones most likely to require more expensive repairs and upkeep, yet owners who own such properties are the very ones denied the ability to raise rents to accomplish those objectives under the 4% Rent-Increase Cap.

125. The City's approach also distorts the market. One of the practical constraints on rent control is the idea that, if a jurisdiction's restrictions are too severe, it will discourage people from investing in new housing stock, and this market pressure will in turn force the jurisdiction to curb its worst regulatory excesses. The City has relieved itself of that practical constraint here, however, by imposing the 4% Rent-Increase Cap exclusively on older housing stock. That one-sided restriction enables new entrance into the rental-housing market and obviates the effects of RSO-regulated landlords voting with their feet and investing elsewhere.

126. It is no answer for the City that the government may treat categories of property differently in some circumstances. As the Supreme Court has admonished, the government "may divide different kinds of property into classes" and regulate them differently only "so long as those divisions and burdens are reasonable." *Allegheny Pittsburgh Coal Co. v. Cnty. Comm'n of Webster Cnty.*, 488 U.S. 336, 346 (1989). As noted, Los Angeles' 4% Rent-Increase Cap draws an unreasonable dividing line by unduly burdening existing rental-housing stock while favoring those property owners who want to enter the market, create new buildings, and thereby avoid the RSO's strictures, especially the 4% Rent-Increase Cap. Moreover, to qualify as reasonable within the meaning of *Allegheny Pittsburgh*, a jurisdiction cannot explain a regulation only with a rationale that

contradicts fundamental constitutional values. While Los Angeles may have made its rent-control regime retroactive-only in an effort to visit burdens on property owners with sunk costs and severely limited options to exit the market, while avoiding the obvious disincentives for investment in new rental housing stock, that effort is doubly problematic. Legislation is presumptively prospective-only, *see Landgraf v. USI Film Prods.*, 511 U.S. 244, 272 (1994), a "principle [that] serves vital equal protection interests," *Opati v. Republic of Sudan*, 590 U.S. 418, 425 (2020); *see id.* ("If legislative majorities could too easily make new laws with retroactive application, disfavored groups could become easy targets for discrimination, with their past actions visible and unalterable."). Accordingly, retroactive-only legislation is anomalous and suspect. *See, e.g.*, *INS v. St. Cyr*, 533 U.S. 289, 315 (2001) ("Retroactive statutes raise special concerns."). But that problem is particularly acute when it comes to property rights, as the animating principle of the Takings Clause is that individual property owners should not have to "bear public burdens which, in all fairness and justice, should be borne by the public as a whole"—or at least all property owners. *Armstrong*, 364 U.S. at 49; *see also United States v. Sec. Indus. Bank*, 459 U.S. 70, 75-78 (1982) (declining to construe a section of the bankruptcy code to have retrospective application because of the Takings Clause problems that doing so would create). Moreover, rent control that applies equally to all housing stock—

existing and yet to be built—is subject to the practical constraint that governments cannot restrict rents so severely to destroy the incentives for new investments. Los Angeles cannot free itself from that practical constraint by visiting the burdens of rent control exclusively on existing housing stock through retroactive-only legislation.

127. As Plaintiffs' experience demonstrates, the 4% Rent-Increase Cap is no trivial matter, as it has significantly constrained their ability to cover the increased costs of, among other things, insurance, repairs, and property taxes. Saddling these severe restrictions and devasting costs on existing landlords alone exemplifies the kind of unequal treatment that the Equal Protection Clause is designed to guard against.

128. Nor can Los Angeles claim that its decision to apply the 4% Rent-Increase Cap simply utilized a distinction between RSO and non-RSO properties that it has followed since the RSO's inception. After the pandemic, Los Angeles had an opportunity to start fresh and to regulate all rental properties on an even-handed basis. But rather than treat similarly situated rental properties alike, as the Constitution requires, Los Angeles instead doubled down on its discriminatory treatment by imposing the crushing 4% Rent-Increase Cap solely on rental properties in existence as of October 1, 1978. Los Angeles cannot justify its current embrace of discriminatory treatment of RSO-regulated property owners

just because it has discriminated against the same property owners in the past. *See, e.g.*, *Parents Involved in Cmty. Schs. v. Seattle Sch. Dist. No. 1*, 551 U.S. 701, 779 (2007) (Thomas, J., concurring) (explaining that jurisdictions cannot legitimize constitutional violations "by adverse possession").

129. Simply put, in late 2023 (and again in early 2024, when it extended the 4% Rent-Increase Cap through June 2025), Los Angeles made the intentional decision to burden certain rental-property owners while exempting similarly situated rental-property owners, and it lacked any legitimate, reasonable or even rational basis for this action. L.A. Mun. Code §151.34; L.A., Cal., Ordinance 188,071 (2023); *see* L.A. Hous. Dep't, *Attn: Tenants & Landlords*, https://rebrand.ly/dpls81n (archived Aug. 8, 2024). As a result, Plaintiffs are entitled to damages for this violation of the Equal Protection Clause and an injunction prohibiting the City from enforcing the 4% Rent-Increase Cap against their RSO-regulated properties.

COUNT FOUR
Takings Clause of the Fifth Amendment to the U.S. Constitution
42 U.S.C. §1983
Relocation-Fee Requirement

130. Plaintiffs incorporate by reference the allegations contained in the preceding paragraphs of this Complaint as though fully set forth herein.

131. The Takings Clause of the Fifth Amendment, applicable to the states and local governments through the Fourteenth Amendment, provides: "[N]or shall private property be taken for public use, without just compensation." U.S. Const. amend. V.

132. As explained, the Supreme Court has held that a *per se* taking necessitating payment of just compensation occurs when the government "appropriates for the enjoyment of third parties the owners' right to exclude," *Cedar Point*, 594 U.S. at 149, or "otherwise interfere[s] with the owner's right to exclude others from it," *Sheetz*, 601 U.S. at 274.

133. Los Angeles' Relocation-Fee Requirement does exactly that. It provides that, even in circumstances where the fixed term of a lease has expired, landlords may not exclude existing tenants to recover their own property for family use unless those landlords first pay the existing tenants anywhere between $9,900 and $25,700. *See* ¶70, *supra*.

134. And that is the best-case scenario. If the tenant in the relevant unit has resided there for at least 10 years and is either at least 62 years old or disabled, that tenant is deemed a "protected tenant" by the City. *See* L.A. Mun. Code §151.30(D). As a result of that status, the landlord can evict and reclaim the unit for family use only by withdrawing that unit and all others on the property from the rental market and by providing notice of the intent to withdrawal one year in

advance. *See id.* §§151.09(A)(10), 151.23(B). The City also requires the landlord to immediately pay the tenants in each of those units relocation fees—either by paying the tenants themselves or placing the funds into an escrow account. *See id.* §151.09(G), (G)(2). Only after the landlord jumps through these hoops and waits a year—during which time the tenants are free to continue living in their units—can she reclaim those units for family use.

135. That Relocation-Fee Requirement plainly qualifies as a significant interference with the right to exclude—in many circumstances, it effectively denies property owners the ability to exercise that right at all. Plaintiff Harris' experience proves the point: She wishes to recover two units at her three-unit property at 2122 Vineyard Avenue for family use, but because the tenants in those units are protected tenants, she is precluded from doing so for at least one year. *See* ¶75, *supra*. And in all events, she cannot afford to pay the tenants the relocation fees ($25,700 for each tenant) that the City requires. *See* ¶75 & n.9, *supra*. The tenants therefore have government authorization to remain in the property by fiat—a quintessential physical invasion.

136. By prohibiting landlords from evicting protected tenants at all for a year and by ordering landlords to pay exorbitant relocation fees to reclaim *their own* property for *their own* use, the City has held their basic and familiar right to exclude hostage, in violation of the Takings Clause. *See Cedar Point*, 594 U.S. at

162 ("[B]asic and familiar uses of property are not a special benefit that the Government may hold hostage, to be ransomed by the waiver of constitutional protection." (quotation marks omitted)); *cf. Lucas v. S.C. Coastal Council*, 505 U.S. 1003, 1017 (1992) ("[The] total deprivation of beneficial use is, from the landowner's point of view, the equivalent of a physical appropriation.").

137. At a minimum, the Relocation-Fee Requirements effects a regulatory taking under the flexible *Penn Central* test.

138. First, the economic impact of the Relocation-Fee Requirement on Plaintiffs' property is substantial. As just explained, any time that a landlord wishes to reclaim one of her rental units for family use, she must pay the tenant in that unit between $9,900 and $25,700. And the impact of those figures is more acute today than ever. The most obvious source of funds for relocation fees for an RSO-regulated landlord is the revenue generated from rent. But the 4% Rent-Increase Cap artificially constrains the rent that a landlord may charge, and the FMR Eviction Restriction allows a tenant to flout his rent obligations to boot.

139. Second, the Relocation-Fee Requirement—the extant version of which the City introduced between 2005 and 2017, long after Plaintiff Harris acquired her properties, *see* L.A Mun. Code §§151.09(A)(10), (G), 151.30(E); L.A., Cal., Ordinances 176,544 (2005), 180,747 (2009), 184,822 (2017)—interferes with reasonable investment-backed expectations, as no property owner

reasonably expects that the government will forever require them to pay hefty (and ever-increasing) sums to exercise fundamental property rights. *See Cedar Point*, 594 U.S. at 162; *see also Murr*, 582 U.S. at 396 ("States do not have the unfettered authority to 'shape and define property rights and reasonable investment-backed expectations,' leaving landowners without recourse against unreasonable regulations.").

140. Finally, "[a] 'taking' may more readily be found when the interference with property can be characterized as a physical invasion by government," *Penn Cent.,* 438 U.S. at 124, and that is the correct characterization of the restriction at issue here. The Relocation-Fee Requirement literally allows tenants to physically occupy private property with government authorization unless landlords pay their tenants handsome payments, and when those tenants are "protected tenants," the physical occupation does not cease until approximately one year after the payments are made. That government-authorized physical invasion through the Relocation-Fee Requirement plainly satisfies this third factor.

141. Once again, no matter the test, the City owes just compensation for the takings effected by the Relocation-Fee Requirement.

COUNT FIVE
First Amendment to the U.S. Constitution
42 U.S.C. §1983
Renter Protections Notice Requirement

142. Plaintiffs incorporate by reference the allegations contained in the preceding paragraphs of this Complaint as though fully set forth herein.

143. The First Amendment, applicable to the states and local governments through the Fourteenth Amendment, provides that the governments "shall make no law … abridging the freedom of speech." U.S. Const. amend. I.

144. As that text makes clear, the First Amendment "guarantees 'freedom of speech,' a term necessarily comprising the decision of both what to say and what *not* to say." *Riley v. Nat'l Fed'n of the Blind of N.C., Inc.*, 487 U.S. 781, 796-97 (1988).

145. Supreme Court precedent interpreting the First Amendment "distinguish[es] between content-based and content-neutral regulations of speech." *NIFLA*, 585 U.S. at 766. "Content-based regulations 'target speech based on its communicative content," and—"[a]s a general matter"—"such laws 'are presumptively unconstitutional and may be justified only if the government proves that they are narrowly tailored to serve compelling state interests.'" *Id.*

146. Accordingly, when the government "compel[s] individuals to speak a particular message" over their objection—*e.g.*, when the government requires

them to "provide a government-drafted script" to third parties—"such notices 'alter the content of their speech'" and therefore trigger heightened scrutiny. *Id.* (brackets omitted); *see also 303 Creative LLC v. Elenis*, 600 U.S. 570, 586-87 (2023) ("Nor does it matter whether the government seeks to compel a person to speak its message when he would prefer to remain silent or to force an individual to include other ideas with his own speech that he would prefer not to include. All that offends the First Amendment just the same." (citations omitted)).

147. The Renter Protections Notice Requirement compels RSO-regulated landlords to speak a particular message to third parties when they would not otherwise do so. As a result of the Renter Protections Notice Requirement, "a landlord must have the Notice of Renters' Protections"—which is written in English and Spanish—"posted on all residential properties in an accessible common area of the property" for tenants to view. L.A. Hous. Dep't, *Protections Notice*, *supra.* Among other things, that City-drafted script that landlords must provide to tenants explains that: (1) RSO-regulated "landlords may not evict a tenant who falls behind on rent unless the tenant owes an amount higher than the Fair Market Rent (FMR)," and it then provides a grid detailing the applicable FMR value for any given unit; (2) RSO-regulated landlords may not increase rents annually by more than 4% during the period spanning February 2024-June 2025 (while noting that "RSO rent increases were prohibited from March 2020 to

January 2024"); and (3) RSO-regulated landlords must pay "Relocation Assistance" (the amounts of which are also displayed in a grid) in all circumstances involving "no-fault evictions for all residential units," which includes "occupancy by the owner" or "family member." L.A. Hous. Dep't, *City of Los Angeles Renter Protections Notice* (rev. Oct. 1, 2024), *supra*.

148. The Renter Protections Notice Requirement therefore requires RSO-regulated landlords to either "speak as the [government] demands" or face severe consequences. *303 Creative*, 600 U.S. at 589; *see* L.A. Mun. Code §151.10(B). Such government-compelled speech triggers heightened scrutiny, which the City cannot overcome.

149. Nor can the City evade heightened scrutiny by invoking more lenient tests, such as those that apply to "commercial speech." *See Zauderer v. Off. of Disciplinary Couns. of Sup. Ct. of Ohio*, 471 U.S. 626 (1985). The *Zauderer* commercial-speech standard applies in circumstances involving disclosure of "purely factual and uncontroversial information about the terms under which … services will be available," and courts uphold regulations requiring such disclosures unless they are "unjustified or unduly burdensome." *Id.* at 651. That standard has no place here, including because requiring landlords to disclose to tenants how they can utilize the City's policies to erode fundamental property rights (*i.e.*, the right to exclude) is neither "uncontroversial" nor "[]justified." *See,*

e.g., *Nat'l Ass'n of Wheat Growers v. Bonta*, 85 F.4th 1263, 1277 (9th Cir. 2023) (explaining that even purely factual information can qualify as controversial based on "the topic of the disclosure and its effect on the speaker").

150. Plaintiffs thus are entitled to damages for this violation of the First Amendment and an injunction prohibiting the City from requiring Plaintiffs to comply with the Renter Protections Notice Requirement moving forward.

RELIEF REQUESTED

Plaintiffs respectfully request from this Court:

a. A determination that the FMR Eviction Restriction effected an uncompensated taking of private property, entitling Plaintiffs to an award of just compensation;

b. A determination that the 4% Rent-Increase Cap effected an uncompensated taking of private property, entitling Plaintiffs to an award of just compensation;

c. A determination that the 4% Rent-Increase Cap constitutes unequal treatment in violation of the Equal Protection Clause, entitling Plaintiffs to an award of damages;

d. An order enjoining Los Angeles from enforcing the 4% Rent-Increase Cap against RSO-regulated properties owned by Plaintiffs;

e. A determination that the Relocation-Fee Requirement effected an uncompensated taking of private property, entitling Plaintiffs to an award of just compensation;

f. A determination that the Renter Protections Notice Requirement violated the First Amendment, entitling Plaintiffs to an award of damages;

g. An order enjoining Los Angeles from enforcing the Renter Protections Notice Requirement against Plaintiffs;

h. Award Plaintiffs their costs and reasonable attorney's fees incurred in this action pursuant to 42 U.S.C. §1988 and other applicable law; and

i. Grant all other such relief to Plaintiffs as the Court may deem just and proper

Respectfully submitted,

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